



MONTANA LEGISLATIVE BRANCH

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DATE: September 24, 2004

TO: Legislative Finance Committee

FROM: Pat Gervais, Senior Fiscal Analyst

RE: Developmental Disabilities System Changes

At its previous meetings (March and June) the Legislative Finance Committee (LFC) heard an initial report and an update regarding emerging issues and system changes that are underway in Montana's system providing services to developmentally disabled individuals. This memo updates the previous reports heard by the LFC and covers the following topics:

- o Nationwide nature of the changes being undertaken in developmental disabilities (DD) systems
- o Developmental Disability Program (DDP) policy changes adopted or near adoption by the Department of Public Health and Human Services (DPHHS)

Catalyst for Change

As discussed in previous reports to the LFC, a major catalyst for the changes being undertaken in the developmental disabilities system is the review findings of the Center for Medicare and Medicaid (CMS), the federal agency responsible for oversight of the Medicaid program. Historically, many general Medicaid provisions that were applicable to the Home and Community Based Waiver for developmentally disabled individuals were not actively enforced through out the nation. In the past years CMS has been subject to some General Accounting Office (GAO) reviews¹. These reviews have been critical of CMS and its oversight of the Medicaid program. It appears that these reviews and changes within the federal government have led to much greater scrutiny of state Medicaid programs within Montana and across the nation.

Policy Changes

At the September 23rd meeting of the Reimbursement Methodology Project Advisory Group, two significant policy changes regarding children "aging out" of services and screening for service entry were discussed. DDP policy regarding children "aging out" of services will change effective October 1, 2004. Previously, children who graduated high school and/or reached an age where they were no longer eligible for children's services ("aged out") under the Home and Community Based Services waiver were exited from services and placed on the waiting list for

¹ June 2003, GAO 03-576, Long Term Care: Federal Oversight of Growing Medicaid Home and Community-Based Waivers Should Be Strengthened

adult services. Under the revised policy, effective October 1, 2004, individuals that “age out” of children’s waiver services will be eligible to receive services in the adult waiver. These individuals will move to adult services with the same cost plan allocation as they had in children’s services. This cost plan may or may not be adequate to fully fund the individual’s identified needs.

The second policy discussion is related to screening individuals into services when a waiver opening occurs. Under the proposed policy, when a service opening becomes available, those individuals with costs plans at or 10 percent below the funding available due to the opening will be included in the pool of potential candidates. Within this pool of candidates, the screening team will rank candidates according to: 1) geographic proximity to the community in which the opening exists; 2) level of need, with those in crisis being highest priority; and 3) those receiving services whose cost plan is not fully funded.

These changes, in both screening process and priority, are primarily due to the need to comply with CMS requirements and review findings. The increased priority emphasis given to individuals receiving services whose cost plan is not fully funded (while contemplated in order to address CMS concerns about individual needs not being fully met) is likely to have a detrimental impact on individuals currently without services and on the waiting list. The policy revision contemplated prioritizes fully funding cost plans for those already in services above provision of limited services to individuals on the waiting list. Thus, individuals will likely remain on the waiting list for longer periods of time, and the size of the waiting list may grow.

While the pros and cons related to the number of individuals served verses fully meeting individual needs can be debated, CMS review findings cited this as an issue of concern that should be corrected. To date CMS has not aggressively pursued state compliance regarding this issue, and while it is unclear when or how aggressively it will be pursued, department staff believe it is wise to begin taking action to correct this situation. In general, CMS has been patient and cooperative with states as long as steps are being taken to remedy review findings.